

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

U.A. LOCAL 342 JOINT LABOR -  
MANAGEMENT COMMITTEE, et  
al.,

No. C-04- 2531 SBA (WDB)  
No. C-05-1758 SBA (WDB)

Plaintiffs,

**ORDER RE RELATED MOTIONS  
FOR DEFAULT JUDGMENT**

v.

AIRTEKS MECHANICAL  
SERVICES, INC., a California  
Corporation, and JEROME  
BOHLAND,

Defendants.

and related case

Judge Armstrong has related the above-captioned cases and has referred plaintiffs' Motion for Default Judgment in Case No. 04-2531 to the undersigned. As a result, this court is charged with issuing reports and recommendations with respect to two motions by plaintiffs requesting judgment by default against the same defendant(s) for failure to pay contributions. Although plaintiffs' second action (C05-1758) is styled as a request for an audit, plaintiffs also seek an order compelling defendant(s) to pay amounts found owing by the auditor. As a result, there is substantial overlap between the relief requested in C05-1758 and that requested in C04-2531.

1 The court does not want plaintiffs to incur unnecessary fees or to duplicate  
2 all of its prior efforts. At the same time, it is unreasonable to expect the court to  
3 comb through plaintiffs' two separate motions in an effort to determine what  
4 requested relief overlaps and what relief is unique to each motion. Accordingly,  
5 the court proposes a procedure for streamlining plaintiffs' motions without  
6 requiring plaintiffs to re-file every supporting document previously submitted in  
7 connection with the two motions.

8 The court ORDERS plaintiffs to file one new memorandum of points and  
9 authorities that captures all the matters addressed in plaintiffs pending motions for  
10 default judgment. The court will **not** read the two memoranda of points and  
11 authorities currently pending in connection with plaintiffs two motions. Plaintiffs  
12 new memorandum must address each item of relief sought (and the legal support  
13 for plaintiffs claim that they are entitled to it) only once – *e.g.*, total unpaid  
14 contributions, total liquidated damages, total interest, total attorneys fees and  
15 costs, right to an audit.

16 The court will refer to the evidence (declarations and their attachments)  
17 already on file. Plaintiffs should not re-file declarations or evidence currently in  
18 the record. However, in their memorandum of points and authorities, plaintiffs  
19 **must** direct the court quite specifically to the place in the record where support for  
20 plaintiffs' requests can be found. Plaintiffs must cite evidence by case number,  
21 name of declarant, paragraph number, and, if the evidence is contained in an  
22 exhibit, exhibit number and page number within the exhibit.

23 The court is concerned that plaintiffs may have incurred unnecessary  
24 attorneys' fees and costs as a result of counsel's decision to file a second, formally  
25 separate complaint in order to secure an audit instead of seeking that remedy  
26 simply by amending the original complaint. When they submit their consolidated  
27  
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1 fee request, plaintiffs must delete any claims for fees or costs that could have been  
2 avoided by maintaining only one action.

3 **By Friday, December 23, 2005**, plaintiffs must file with the court and serve  
4 on defendant(s) their consolidated memorandum of points and authorities.

5 **By Monday, January 9, 2006**, defendant(s) must file with the court and  
6 serve on plaintiffs their response to plaintiffs' consolidated memorandum, if any.

7 **On Wednesday, January 18, 2006, at 1:30 p.m.**, the court will conduct a  
8 hearing in connection with plaintiffs' consolidated motion for default judgment.

9 **The Court ORDERS plaintiffs to serve a copy of this Order on**  
10 **defendants immediately.**

11 IT IS SO ORDERED.

12 Dated: December 1, 2005

13 /s/ Wayne D. Brazil  
14 WAYNE D. BRAZIL  
United States Magistrate Judge

15 Copies to:  
16 Plaintiffs with direction to serve defendants,  
17 SBA, wdb, stats  
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